



MICHAEL A. CARDOZO
Corporation Counsel

THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

DIEP NGUYEN
Assistant Corporation Counsel
tel.: (212) 356-2328
fax: (212) 356-3509
e-mail: dinguyen@law.nyc.gov

August 9, 2013

BY E-MAIL

Jonathan S. Chasan, Esq.
The Legal Aid Society
199 Water Street, 6th Floor
New York, New York 10038

Re: Mark Nunez v. City of New York, et al., 11-CV-5845 (LTS) (JCF)

Dear Mr. Chasan:

Recently, plaintiffs have asserted that the Class Notice is not posted in certain areas within the jails as required by the court's order of March 19, 2013 (DE 78). In order to address your concerns, on August 8, 2013, I and one of our co-counsel, Julie Ortiz, conducted a site inspection in the following facilities: Robert N. Davoren Center (RNDC), George Motchan Detention Center (GMDC), Otis Bantum Correctional Center (OBCC) and George R. Vierno Center (GRVC). We provide you with a summary of our findings.

A) RNDC

We inspected the following areas: Intake/Receiving Room, Law Library and Housing areas 1 Lower North, 1 Lower South, 3 Lower North, 3 Central North and 4 Lower South.

In the Intake/Receiving Room, we observed 9 Class Notices conspicuously posted throughout the area. Specifically, there is one posted, at eye level, immediately next to the inmate metal detectors. Class Notices are posted in Pen nos. 3, 4 and 13. They are also posted outside and in between Pen nos. 1, 2, 3, 5 and 9. Further, there is a Class Notice posted at the entrance of the Intake/Receiving Room. Please be advised that the notices posted in Pen 4 and outside of Pen 5 appear to have been ripped by the inmates. We also observed some notices which were defaced, apparently, by the inmates.

In the Law Library, we observed the Class Notice posted on a pillar in an area where there is heavy inmate traffic. We also observed a Class Notice posted on the wall by the window.

In Housing areas 3 Central North and 3 Lower North, the Class Notice is posted in the officer's booth or "bubble." During our visit, we observed heavy traffic in the bubble area as the inmates made requests to use the telephone or be provided with toilet paper.

In Housing areas 1 Lower North and 1 Lower South, we observed the Class Notice posted inside and outside of the officer's bubble. At 1 Lower South, the exterior Class Notice is posted immediately next to the housing rules for the inmates.

Please note that Housing area 4 Lower South has been closed indefinitely due to construction. As such, there are no inmates being housed in this area. We inspected the area anyway and observed that there are 3 Class Notices posted at the officers' bubble.

B) GMDC

In GMDC, we inspected the Intake/Receiving Room, Law Library and Housing areas 1 Upper and 4 Main.

In the Intake/Receiving Room, we observed the Class Notice posted by Pen 8 and in the inmate search area. In the Law Library, we observed the Class Notice posted in 4 different areas. There are 3 postings on the walls within direct proximity to the door. The fourth posting is affixed on top of the inmate service counter.

In Housing area 4 Main, we observed a posting by the right hand side of the entrance. In Housing area 1 Upper, a posting was placed by the inmate telephones at our request, as we did not see any posting in that area when we initially arrived there.

C) OBCC

In OBCC, we inspected the Intake/Receiving Room, Law Library and Housing areas 3 North, 4 Lower and 5 North.

In the Intake/Receiving Room, the Class Notice is posted by the new admission pen as well as by the officers' front desk area. The Law Library has two postings; one by the inmate bathroom and one on the front desk counter.

In Housing area 3 North, the Class Notice is posted on a pillar by the inmate telephones. In Housing area 4 Lower, there are 3 postings by the officers' bubble and they are all within direct proximity to the inmate telephones.

Housing area 5 North is Punitive Segregation and all inmates in this area are confined to a cell for a period of 23 hours per day as they are high risk. The posting in this area is on the pillar by the entranceway.

D) GRVC

In GRVC, we inspected the Intake/Receiving Room, Law Library, Housing area 1A and 2 and MHAUII (Housing area 11 and 13).

In the Intake/Receiving Room, the Class Notice is posted by the inmate search area as well as by one of the main pens. In the Law Library, the Class Notice is posted on the counter by the inmate sign-in sheet, on a table by the inmate grievance forms and on a bulletin board.

Housing area 1A has been closed for construction. As such, there are no inmates housed in this area. We inspected the area and observed a Class Notice posted in the officers' bubble.

Housing area 2 is Punitive Segregation and all inmates in this area are confined to a cell for a period of 23 hours per day as they are high risk. There are Class Notices posted on the officers' bubble in Housing area 2A and on the inmate magnetometer in Housing area 2B.

MHAUII houses those inmates with mental health issues, as you know. In Housing areas 13A and 13B, the Class Notice is posted by the officers' bubble. In Housing area 11A, the Class Notice is posted in the officers' bubble and behind the officers' desk in the inmate area. In Housing area 11B, the Class Notice is posted in the officers' bubble and by the inmate showers.

Our observations suggest that DOC is in compliance with the posting requirements set forth in the court's orders, with very limited exceptions. If an inmate takes it upon himself to rip or deface the notice, this is out of the control of DOC and such destructive behavior, while not uncommon, would be next to impossible to prevent. During our inspection, several inmates voiced, without being asked, their awareness of the class action; thus, further supporting our position. As such, it does not appear that further action is required of DOC at this time.

Thank you for your attention to this matter. We of course remain open to hearing any further concerns you may have regarding this matter.

Very truly yours,



Diep Nguyen
Assistant Corporation Counsel

cc: All counsel (By e-mail)

Larkin, Arthur (Law)

From: Nguyen, Diep (Law)
Sent: Friday, August 09, 2013 4:06 PM
To: 'JChasan@legal-aid.org'; 'NunezPlaintiffsCounsel@ropesgray.com'
Cc: Larkin, Arthur (Law); Savino, Kimberly (Law); Ortiz, Julie (Law)
Subject: Rikers Inspection
Attachments: Letter to Plaintiffs' Counsel re Housing Inspections.pdf

Counsel:

Please see attached.

Best,

Diep Nguyen
Assistant Corporation Counsel
New York City Law Department
100 Church Street, Room 3-166
New York, New York 10007
*phone: (212) 356-2328
fax: (212) 788-9776

*Note my new phone number.

8/9/2013